

SCOTTSDALE

CITY COUNCIL MEETING



AMENDED NOTICE AND AGENDA

(SPECIAL MEETING/EXECUTIVE SESSION ADDED; ITEM 18 ADDITIONAL LANGUAGE ADDED)

COUNCIL

Mary Manross, Mayor

Betty Drake

Wayne Ecton

W.J. "Jim" Lane

Robert W. Littlefield

Ron McCullagh

Kevin J. Osterman

Tuesday, April 25, 2006

***2:30 P.M.

CITY COUNCIL SPECIAL MEETING

MARKED AGENDA

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **2:32 PM**

Roll Call – **ALL PRESENT**

1. REQUEST FOR EXECUTIVE SESSION TO:

- A. Discuss and consult with the attorneys and representatives of the public body for legal advice and to consider its position and instruct its representatives regarding Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the City Auditor; and discussion or consultation for legal advice with the City's attorney(s) regarding same. Contact: Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov. A.R.S. 38-431.03 (A) (1) and (A)(3).

2. MOTION TO RECESS INTO EXECUTIVE SESSION TO:

- A. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the City Auditor; and discussion or consultation for legal advice with the City's attorney(s) regarding same. A.R.S. 38-431.03 (A) (1) and (A)(3).

Adjourn to Executive Session – **2:34**

4:00 P.M.

CITY COUNCIL SPECIAL MEETING

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **4:03 PM**

Roll Call – **ALL PRESENT**

Boards, Commissions and Task Forces -

How the Board and Commission Interview and Appointment Process Works: The Council will spend a few minutes interviewing each board and commission nominee. At the conclusion of the interviews, the Council will make the appointments. Once the appointments have been made, the Council will take a short recess and reconvene at 5:00 p.m. to consider the remainder of the items on tonight's agenda.

Interview of citizen nominees and appointments to City boards and commissions.

Historic Preservation Commission. *Nominees:* Yvonne Boutell, Nancy Dallett, DeeJaye Lockwood
Council action to fill one Real Estate vacancy. – **NANCY DALLETT, DEEJAYE LOCKWOOD**

Industrial Development Authority. *Nominees:* Jay Berens, James Carmody
Council action to fill one vacancy. – **JAY BERENS**

McDowell Sonoran Preserve Commission. *Nominees:* Joel Feldman, Erik Filsinger, Rand Hubbell, Christine Kovach, Arnold Roy
Council action to fill three vacancies. – **ERIK FILSINGER, RAND HUBBELL, ARNOLD ROY**

Planning Commission. *Nominees:* David Barnett, Donna Hardin, Eric Hess, Michal Joyner, Jeffrey Schwartz
Council action to fill three vacancies. – **DAVID BARNETT, ERIC HESS, JEFFREY SCHWARTZ**

Tourism Development Commission. *Nominees:* Kate Cavaliere, Janice Wight
Council action to fill one vacancy. – **KATE CAVALIERE**

5:00 P.M. CITY COUNCIL MEETING

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **5:26 PM**

Roll Call – **ALL PRESENT**

Pledge of Allegiance – **BROWNIE TROOP 2624, OUR LADY OF PERPETUAL HELP**

Invocation – **PASTOR JOHN MCGOVERN, TRINITY ALIVE**

Presentations/Information Updates

Public Comment – **ERIC BOROWSKY EXPRESSED OPPOSITION TO PROPOSITION 402 AND SUBMITTED A PETITION REQUESTING THE FORMATION OF A BLUE RIBBON PANEL TO REVIEW FY 2006/07 BUDGET. LYLE WURTZ STATED HIS CONCERNS REGARDING USE OF “SCARE TACTICS” AND IMPLICATIONS CONTAINED IN CAMPAIGN LITERATURE.**

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening’s meeting. Please check the box that refers to “Public Comment.” This “Public Comment” time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

Approval of Minutes - OK – 7/0

SPECIAL MEETINGS

[March 21, 2006](#)

[March 28, 2006](#)

[April 4, 2006](#)

REGULAR MEETINGS

[March 21, 2006](#)

WORK STUDY SESSIONS

[March 27, 2006](#)

[March 28, 2006](#)

[April 3, 2006](#)

EXECUTIVE SESSIONS

September 6, 2005

September 13, 2005

October 4, 2005

October 11, 2005

October 15, 2005

CONSENT AGENDA ITEMS 1 - 17

How the Consent Agenda Works: The Council may take one vote to act on all items on the Consent Agenda, or may remove items for further discussion. Every interested citizen will have one opportunity to speak on any or all Consent Agenda items. If you wish to speak on these items, please complete a Comment Card for each topic you wish to address. **You will be given at least three minutes to speak on all the Consent Agenda items you wish to address. Additional time for multiple agenda items will be at the Mayor's discretion.**

After all speakers have finished, the City Council will decide which items to remove for additional discussion and/or presentation from staff. Items not removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Council will be acted on as appropriate.

1. **Circle K #6652 (Liquor Store) Liquor License – OK – C**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 9 (liquor store) license for an existing location changing from a series 10 (beer and wine store) license.
Location: 10989 E. Dynamite Boulevard, Suite #101
Reference: 14-LL-2006
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Chief Customer Service Officer, 480-312-2664, cpadian@scottsdaleaz.gov
2. **Circle K Store #5915 (Liquor Store) Liquor License – OK – C**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 9 (liquor store) license for an existing location changing from a series 10 (beer and wine store) license.
Location: 20721 N. Scottsdale Road
Reference: 15-LL-2006
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Chief Customer Service Officer, 480-312-2664, cpadian@scottsdaleaz.gov
3. **Tawook Mediterranean Cuisine (Restaurant) Liquor License – OK – C**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location.
Location: 8140 N. Hayden Road, #H115
Reference: 18-LL-2006
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Chief Customer Service Officer, 480-312-2664, cpadian@scottsdaleaz.gov
4. **Trader Vic's (Restaurant) Liquor License – OK – C**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for a new location.
Location: 6850 E. Main Street
Reference: 28-LL-2006
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Chief Customer Service Officer, 480-312-2664, cpadian@scottsdaleaz.gov

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5. **DC Ranch Parcel 1.15 and 1.16 Final Plat – OK – C (WITH CHANGES)**
Request: Approve a final plat for a townhome development on a 25 +/- acre parcel within DC Ranch.
Location: 9301 and 9501 E. Union Hills Drive
Reference: 17-PP-2004
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov
6. **Mountainside Plaza - M & I Bank Conditional Use Permit – OK – C**
Requests:
 1. Approve a conditional use permit for a bank on a 1.22 +/- acre parcel located at 11612 E. Shea Boulevard with Service Residential District (S-R) and Highway Commercial District, Planned Community District (C-3 PCD) zoning.
 2. Adopt Resolution No. 6870 affirming the conditional use permit.**Location:** 11612 E. Shea Boulevard
Reference: 4-UP-2006
Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov
7. **Construction Bid Award for Roadway Capacity Improvements – OK – C**
Request: Authorize Construction Bid Award No. 06PB079 for construction of Intersection Mobility Enhancements at ten separate locations to Visus Engineering Construction Inc., the lowest responsive bidder, at their unit price bid of \$816,646.
Staff Contact(s): Roger Klingler, Assistant City Manager, 480-312-5830, rklingler@scottsdaleaz.gov
8. **On-Call Engineering Services Contracts for the Design of Storm Water Systems Improvements – OK – C**
Requests:
 1. Authorize Engineering Services Contract Modification No. 2004-156-COS -A1 with Stanley Consultants, an annual renewal contract, in the amount of \$125,000 for the design of Storm Water Management Systems Improvements.
 2. Authorize Engineering Services Contract Modification No. 2004-157-COS- A1 with Engineering and Environmental Consultants (EEC), an annual renewal contract, in the amount of \$125,000 for the design of Storm Water Management Systems Improvements.**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, rklingler@scottsdaleaz.gov
9. **Rassner/Library and Scottsdale Community/Human Services Endowments – OK – C**
Request: Adopt Resolution No. 6864 approving the distribution of interest income from the City's endowment program for FY 2006/07, including the recommendation from the Library Advisory Board for an award of \$22,528 to the library, and the recommendation of the Human Services Commission for an award of \$3,400 to Concerned Citizens for Community Health for Vista del Camino Ballet Folklorico.
Related Policies, References:
 - Resolution No. 6112, dated July 1, 2002, authorized field-of-interest agreements with the Arizona Community Foundation and identified City boards to assist in the recommendations as to distribution of funds.
 - Resolution No. 6661, passed and adopted April 19, 2005, approved the distribution of interest income for the City's endowment program for FY 2005/06.**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, dbaird@scottsdaleaz.gov

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10. **Scottsdale Cares and General Fund Allocation for Public Human Services – OK – C**

Request: Adopt Resolution No. 6865, approving the recommendations of the Human Services Commission for allocation of FY 2006/07 for Scottsdale Cares programs in the amount of \$210,000, and Human Services General Fund projects for regional services in the amount of \$180,000, and authorizing the Mayor to execute contracts for services to be funded through these two programs.

Related Policies, References:

- City Council adopted Ordinance No. 2744 in February 1995 authorizing the voluntary utility donation program (Scottsdale Cares).
- Resolution No. 6647, passed and adopted on April 19, 2005, approved allocation of Scottsdale Cares and General Funds for FY 2005/06.

Staff Contact(s): Debra Baird, Community Services General Manager, 480-312-2480, dbaird@scottsdaleaz.gov

11. **Amendment to Scottsdale Convention and Visitors Bureau Contract for the Arizona Super Bowl XLII Host Community Promotional Program – OK – C**

Requests:

1. Adopt Resolution No. 6881, adding \$115,422.66 to the City's existing FY2005/06 contract with the Scottsdale Convention and Visitors Bureau (SCVB) to be paid from the City's bed tax for the "2008 Super Bowl XLII Host Community Promotional Program."
2. Approve Contract Amendment No. 2005-122-COS-A2 recognizing the change to the SCVB's contract.

Related Policies, References:

- 1993 Council Action approving the Tourism Development Commission's recommendation for a total of \$139,860 in support of Super Bowl XXX in the Valley of the Sun in 1996.
- Council Action on September 30, 1996, approving Resolution No. 4616 supporting the bid to host Super Bowl XXXIV in 2000.
- Council Action on August 25, 2003, approving Resolution No. 6359 authorizing support of the Arizona Super Bowl Host Committee's bid to host Super Bowl XLII in 2008 in the Valley.
- At their October 18, 2005, meeting, the Tourism Development Commission unanimously recommended a total of \$346,268 to be paid from the bed tax in three annual installments beginning in FY2005/06 in support of the Arizona Super Bowl 2008 Host Committee's successful bid to host Super Bowl XLII on February 3, 2008, at the new stadium in Glendale.

Staff Contact(s): Dave Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov; Kathy Carlisle O'Connor, Tourism Development Manager, 480-312-7057, kcoconnor@scottsdaleaz.gov

12. **Settlement of City of Scottsdale v. D. David Perfect, a Preserve Condemnation Case – OK – C**

Request: Adopt Resolution No. 6871 authorizing the City Attorney to settle *City of Scottsdale v. D. David Perfect*, Superior Court case number CV2003-019380, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6074, which authorized the condemnation of the 10.03(+/-) acre parcel for the McDowell Sonoran Preserve.

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Robert Cafarella, Preservation Director, 480-312-7013, rcafarella@scottsdaleaz.gov

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13. **Settlement of City of Scottsdale v. Steven R. Kovac, et al., a Preserve Condemnation Case – OK – C**

Request: Adopt Resolution No. 6872 authorizing the City Attorney to settle *City of Scottsdale v. Steven R. Kovac, et al.*, Superior Court case number CV2004-000239, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 5874, which authorized the condemnation of the 2.071(+/-) acre parcel for the McDowell Sonoran Preserve.

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Robert Cafarella, Preservation Director, 480-312-7013, rcafarella@scottsdaleaz.gov

14. **Settlement of City of Scottsdale v. Thomas W. Stager, a Preserve Condemnation Case – OK – C (WITH CORRECTION TO THE RESOLUTION TO INCLUDE AMOUNT)**

Request: Adopt Resolution No. 6873 authorizing the City Attorney to settle *City of Scottsdale v. Thomas W. Stager*, Superior Court case number CV2004-001352, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 5874, which authorized the condemnation of the 4.819 (+/-) acre parcel for the McDowell Sonoran Preserve.

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Robert Cafarella, Preservation Director, 480-312-7013, rcafarella@scottsdaleaz.gov

15. **Contract Modification and New Contract for Legal Services Relating to Intellectual Property Matters – OK – C**

Requests:

1. Adopt Resolution No. 6883 authorizing the Mayor to execute Contract Modification No. 1997-079-COS-A2 with the law firm of Cahill, Von Hellens & Glazer, P.L.C., allowing payment of accrued patent maintenance fees and government filing fees in an amount not to exceed \$18,000.
2. Adopt Resolution No. 6876 authorizing the Mayor to execute Contract No. 2006-025-COS, an outside counsel contract for a maximum amount of \$50,000 with the law firm of Cahill, Von Hellens & Glazer, P.L.C., for legal services with regard to obtaining and maintaining protection of the City's intellectual property, and the potential licensing and/or marketing thereof.

Related Policies, References: Contract Nos. 1997-079-COS-A2 and 2006-025-COS

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov

16. **Legal Expenses for Llantana vs. City of Scottsdale, et al. – OK – C**

Request: Adopt Resolution No. 6884 authorizing the City's Risk Management Division to continue payments of legal fees to Jones, Skelton & Hochuli in the defense of Llantana vs. City of Scottsdale, et al., CV 2004-04986 PHX SLV, currently pending in the Maricopa County Superior Court.

Related Policies, References: Pursuant to Scottsdale Revised Code, § 2-174, on December 4, 2000, the City Council authorized a contract with the law firm of Jones, Skelton & Hochuli to provide specialized and expert legal services relating to litigation.

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov

17. **Legal Expenses for Douglas L. Bartosh vs. City of Scottsdale, et al. – OK – C**

Request: Adopt Resolution No. 6885 authorizing the City's Risk Management Division to continue payments of legal fees to Udall Shumway & Lyons in the defense of Douglas L. Bartosh vs. City of Scottsdale, et al., previously pending as CIV 03-1986 PHX EHC in the United States District Court and now pending as CV 2005-011739 in Maricopa County Superior Court.

Related Policies, References:

- On February 3, 2003, the City Council authorized the Risk Management Division to award a contract to the law firm of Udall, Shumway & Lyons to provide specialized legal services in selected litigation. The Council Report stated that fees in excess of \$50,000 were required to return to the City Council for additional authorization.
- On October 5, 2004, the City Council considered approving additional expenditures for legal expenditures to the law firm of Udall, Shumway & Lyons in the above-referenced federal case and approved a new contract, Contract No. 2004-128-COS, authorizing an additional contract amount of \$110,000 to be paid by Risk Management.
- On July 20, 2005, Mr. Bartosh filed a new state case in Maricopa County Superior Court, CV 2005-011739, which Risk Management also assigned to Udall, Shumway & Lyons pursuant to its general contract.
- On December 13, 2005, the City Council authorized a new general contract (Contract No. 2005-191-COS) for legal services with the firm of Udall, Shumway & Lyons to provide specialized and expert legal services relating to litigation, with any amounts above \$50,000 per case requiring prior City Council approval.

Staff Contact(s): Deborah W. Robberson, City Attorney, 480-312-2405,
drobberson@scottsdaleaz.gov

Regular Agenda begins on the Following Page

How the Regular Agenda Works: The Council takes a separate action on each item on the Regular Agenda. If you wish to address the Council regarding any or all of the items on the Regular Agenda, please complete a Comment Card for each topic you wish to address and submit it to the City Clerk. **You will be given at least three minutes to speak per item. Comment cards must be submitted before public testimony has begun on any regular agenda or public hearing item.**

18. Public Hearing on Scottsdale's Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) Fiscal Year 2006/07 Annual Action Plan – MOTION TO APPROVE – OK – 7/0

Requests:

1. Solicit public testimony regarding the Fiscal Year 2006/07 Annual Action Plan for the use of CDBG allocated funds in the amount of \$1,186,783, the HOME allocated funds in the amount of \$360,382, and the American Dream Downpayment Initiative (ADDI) allocated funds in the amount of \$9,456.
 2. Adopt Resolution No. 6858, which:
 - Authorizes the submittal of Scottsdale's Annual Action Plan for FY 2006/07, which includes the updated Analysis of Impediments to Fair Housing to HUD, and authorizes the City Manager to execute a contract with the U.S. Department of Housing and Urban Development (HUD) for CDBG funding for FY 2006/07.
 - Approves the return of City of Scottsdale's Housing Rehabilitation program income to the City's CDBG Line of Credit to be expended on eligible rehabilitation activities and authorizes the Community Assistance Manager to execute all documents related to the Housing Rehabilitation Program.
 - Approves the recommendations of the Human Services Commission for the allocation of Fiscal Year 2006/07 CDBG and HOME funds, and \$100,000 from the General Fund for affordable housing related activities.
- ***• Approves the receipt of \$178,200 in Economic Development Incentive (EDI) funds from HUD for costs incurred in remodeling Vista del Camino Community Center
- Authorizes and awards contracts to agencies to be funded with Fiscal Year 2006/07 CDBG funds, subject to final negotiation of scopes of work and the execution of the HUD contract for FY 2006/07 funding, as well as authorizing the awarding of HOME and ADDI funds.
 - Approves reprogramming of remaining resources under prior years' funding.

Related Policies, References: City Council adopted Resolution No. 6656 on April 19, 2005, which authorized and adopted the City of Scottsdale's Five-Year Consolidated Plan for general use of CDBG and HOME funds for Fiscal Years 2005/09.

Staff Contact(s): Debra Baird, Community Services General Manager, 480-312-2480, dbaird@scottsdaleaz.gov

Mayor and Council Items Begin on the Following Page

City Manager's Report – NONE**Mayor and Council Items****19. Citizen Petition Requesting that All Churches Be Subject to a Use Permit and that No Neighborhood Be Allowed to Carry a Disproportionate Number of Such Use Permits –****NO ACTION TAKEN**

Request: Consideration of a citizen petition presented to the City Council on April 4, 2006 as provided for by City Charter, requesting amendments to Appendix B of the Scottsdale Revised Code (Zoning Ordinance). The petition asks that all churches be subject to stipulations through the use permit process, with appropriate penalties for violations of said stipulations. The petition further requests that no neighborhood be allowed to carry a disproportionate number of such use permits and that the number of allowed permits take into consideration the character of the neighborhood and the underlying zoning category.

20. Citizen Petition Asking the City to Recalculate and Update Parking Requirements for Non-residential Uses in Residential Neighborhoods – No**ACTION TAKEN**

Request: Consideration of a citizen petition presented to the City Council on April 4, 2006, as provided for by City Charter, requesting amendments to Appendix B of the Scottsdale Revised Code (Zoning Ordinance). The petition asks the City to recalculate and update the parking requirements for non-residential uses in residential neighborhoods to limit their density, size and growth in order to reflect the character of a residential neighborhood. The petition requests use of code enforcement tools to insure compliance and that no further parking lots be approved in any residential neighborhood until the situation is corrected.

21. Legislative Update – BRIDGET SCHWARTZ MANOCK

Update: Provide updates to the City Council and receive possible direction regarding current and pending State legislative issues and policies.

Related Policies: Pursuant to the 2006 State Legislative Agenda adopted by the City Council on December 13, 2005

Staff Contact(s): Neal Shearer, Assistant City Manager, 480-312-2604, nshearer@scottsdaleaz.gov; Bridget Schwartz-Manock, Intergovernmental Relations Director, 480-312-2423, bschwartzmanock@scottsdaleaz.gov

Public Comment – NONE

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action will be taken on these items.

Adjournment – 7:02 PM